

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR.

CRIMINAL APPLICATION (BA) NO.736/2019

Sheikh Javed Sheikh Hasan .vs. State of Maharashtra, through PSO P.S.
Umarkhed, Dist. Yavatmal.

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's Orders.

Court's or Judge's orders.

Mr. M. N. Ali, Advocate for applicant.
Mr. M. J. Khan, A.P.P. for non applicant-State.
Mr. A. Kukday, Advocate assisting the prosecution.

CORAM : V. M. DESHPANDE, J.

DATED : SEPTEMBER 5, 2019

Criminal Application (APPP) No.1486/2019

This is an application for assisting prosecution.

For the reasons stated in application,
application is allowed. Complainant is allowed to assist
the prosecution.

The application is disposed of.

Criminal Application (BA) No.736/2019

This is an application for regular bail since the
applicant is arrested in connection with Crime
No.14/2019, registered with Police Station, Umarkhed,
Dist. Yavatmal for an offence punishable under Sections
302, 324, 504, 506 read with Section 34 of the Indian
Penal Code.

Heard Mr.Ali, learned counsel for applicant,
Mr.Khan, learned A.P.P. for non applicant-State and also
Mr.Kukday, learned counsel assisting the prosecution.

Deceased in present crime is Shaikh Moin Shaikh Rahim, brother of first informant Babamiya Shaikh Rahim.

First informant and deceased used to run mutton shops at mutton market Karodi road since last 20 years. FIR is lodged on 06.01.2019 in respect of incident that had occurred on 06.01.2019 at 06:30 p.m. in front of mutton shop of first informant. Thus, there is no delay in lodging FIR. According to FIR, co-accused Shaikh Arif Shaikh Ajij and Shaikh Javed Shaikh Hasan came to first informant's shop and took up quarrel with deceased. At that time, they were armed with iron rods. They were quarreling that due to the mutton shop of first informant, mutton shop of present applicant is not doing good business and on that count, these two persons assaulted on Shaikh Moin on his head, resulting into bleeding injuries. As per FIR, Shaikh Nazir Shaikh Sharif, the eye witness came to separate quarrel, that time, these two persons also assaulted on him. In the FIR, the role that is ascribed to the present applicant is that he was instigating the co-accused.

The statement of eye witness recorded on 08.01.2019 would show the role of assault on head of deceased is attributed to co-accused. Though, there is a reference of presence of the present applicant and the accusation, which are made, are the most general in nature.

Post mortem report, which is filed along with charge-sheet would show two injuries; (i) on parital region and (ii) on right hand. The cause of death is head injury. As per the FIR and as per the statements of eye witnesses, the deceased was firstly assaulted on his head by co-accused and not by the present applicant.

In view of the afore discussed evidence that is available in charge-sheet, in my view, applicant need not to continue the jail presence. Hence, I pass the following order.

ORDER

- (i) The application is allowed.
- (ii) Applicant-Sheikh Javed Shaikh Hasan be released on bail in connection with Crime No.14/2019, registered with Police Station, Umarkhed, Dist. Yavatmal for an offence punishable under Sections 302, 324, 504, 506 read with Section 34 of the Indian Penal Code, on he executing P.R. Bond in the sum of Rs.25,000/-with two solvent sureties in the like amount.
- (iii) Applicant shall not enter territorial jurisdiction of Umarkhed city till culmination of trial.
- (iv) Applicant is directed to furnish his residential address to learned Sessions Judge before whom he will be executing the bail bonds. The learned Sessions Judge is directed to issue orders directing the applicant to attend police station close to the place of his residence, once in a week i.e. on every Friday between 03:00 p.m. to 05:00 p.m. till the trial is over.

(v) Applicant shall not give any types of threats to the prosecution witnesses.

(vi) Observations made in this order are purely prima facie in nature and those are made for consideration of this application. Learned trial Judge shall not get influenced by these observations at the time of trial.

The application is disposed of.

JUDGE

kahale